



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

SFUND RECORDS CTR
0639-02968

26651

AR3623

BY FACSIMILE

July 15, 1994

C.B. Paine
Shell Oil Company
P.O. Box 4848
511 North Brookhurst Street
Anahiem, California 92803

Re: Proposed Del Amo Superfund Site - Waste Pit Area

Dear Mr. Paine:

Enclosed is a copy of U.S. EPA CERCLA Order No. 94-16 issued today to Shell Oil Company its subsidiary, Triton Diagnostics, Inc. Following the discovery of small areas of exposed waste at Pits 2-B and 2-A this week, EPA is issuing this Order in order to to have a structure and requirements in place for additional work at the Waste Pit Area. Based on my discussions with Thomas Kearns of Shell yesterday, EPA is hopeful that the Order can be replaced by an administrative order on consent in the near future. I will be in contact with Mr. Kearns next week regarding that possibility.

In the interim, EPA greatly appreciates the quick and thorough response by Shell this week to the discovery of waste material at ground surface at the two pits. EPA also welcomes the assurances from Shell that Shell will continue, as it has in the past, to work cooperatively with EPA in conducting needed response actions at the Waste Pit Area.

If Shell has any questions regarding the Order, I can be reached at (415) 744-1312.

Sincerely,


John J. Lyons
Assistant Regional Counsel

1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY
3 REGION 9
4
5

6 IN THE MATTER OF:) UNILATERAL ADMINISTRATIVE
7) ORDER FOR REMOVAL RESPONSE
8 DEL AMO PITS SUPERFUND SITE) ACTIVITIES
9 TORRANCE, CA)
10) U.S. EPA Region 9
11) CERCLA DOCKET No. 94-16
12 SHELL OIL COMPANY, AND)
13 TRITON DIAGNOSTICS, INC.)
14) Proceeding Under Section
15 RESPONDENTS) 106(a) of the Comprehensive
16) Environmental Response,
17) Compensation, and Liability
18) Act, as amended, 42 U.S.C.
19) §9606(a)
20
21

22 I. JURISDICTION AND GENERAL PROVISIONS
23

24 This Order is issued pursuant to the authority vested in the
25 President of the United States by section 106(a) of the
26 Comprehensive Environmental Response, Compensation, and Liability
27 Act of 1980, 42 U.S.C. § 9606(a), as amended (CERCLA), and
28 delegated to the Administrator of the United States Environmental

1 Protection Agency (EPA) by Executive Order no. 12580, January 23,
2 1987, 52 Federal Register 2923, further delegated to the Regional
3 Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and
4 further delegated to the Region 9 Director of the Hazardous Waste
5 Management Division by Region 9 Delegation No. R1290.43.

6
7 EPA has notified the State of California of this action pursuant to
8 section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

9
10 **II. PARTIES BOUND**

11
12 This Order applies to and is binding upon Respondents and
13 Respondents' directors, officers, employees, agents, successors and
14 assigns. Any change in ownership or corporate status of
15 Respondents including but not limited to any transfer of assets or
16 real or personal property shall in no way alter Respondents'
17 responsibilities under this Order.

18
19 Respondents shall insure that its contractors, subcontractors, and
20 representatives receive a copy of this Order and comply with this
21 Order. Respondents shall be responsible for any non-compliance
22 with this Order.

23
24 **III. DEFINITIONS**

25
26 1. For purposes of this Order, the term "Proposed Del Amo Pits
27 Superfund Site" or "Site" shall include the Remedial Investigation

1 Study Area identified by EPA for the Site including but not limited
2 to the approximately 280 acres of land in Torrance, California at
3 which a synthetic rubber plant operated from 1942 until 1969. See
4 Figure 1.

5
6 2. The term "Waste Pit Operable Unit" or "Waste Pit Area" for
7 purposes of this Order shall be defined as the 3.7 acre parcel,
8 currently owned by Triton Diagnostics, Inc., at the southern end of
9 the property formerly occupied by the synthetic rubber facility
10 adjacent to Del Amo Boulevard at which industrial wastes generated
11 by the synthetic rubber facility were disposed during the operation
12 of that facility. See Figure 2.

13
14 **IV. FINDINGS OF FACT**

15
16 1. From 1942 until approximately 1969, a synthetic rubber
17 production facility operated adjacent to Del Amo Boulevard in
18 Torrance, California. The facility was constructed by the United
19 States Government in 1942 and operated for the government by
20 various private parties. In 1955, Shell Oil Company purchased the
21 facility and operated it until approximately 1969. The facility
22 was closed in 1972 and the property has since been developed as an
23 industrial park.

24
25 2. A 3.7 acre Waste Disposal area is located along the southern
26 boundary of the property formerly occupied by the synthetic rubber
27 facility. Waste material, containing volatile organic compounds

1 (VOCs) and polynuclear aromatic hydrocarbons (PNAs), generated by
2 operations at the synthetic rubber facility was disposed of, at
3 varying times, in the pits located in the Waste Pit Area.
4

5 3. EPA proposed the Del Amo Waste Pits Superfund Site for
6 inclusion on the Superfund National Priorities List in July of
7 1991. EPA has defined the Waste Pit Area as the Waste Pit Operable
8 Unit at the Proposed Del Amo Pits Superfund Site.
9

10 4. In 1992, EPA identified Shell Oil Company, the Dow Chemical
11 Company, the United States General Services Administration, among
12 others, as parties that EPA believes are liable under section
13 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs incurred
14 by EPA with respect to the Proposed Del Amo Pits Superfund Site.
15

16 5. In May 1992, Shell Oil Company, Dow Chemical Company and EPA
17 signed a CERCLA administrative order on consent (No. 92-13) under
18 which Shell and Dow agreed to perform the Remedial Investigation
19 and Feasibility Study for the proposed Del Amo Pits Superfund Site,
20 including a Focused Feasibility Study for the Waste Pit Operable
21 Unit (FFS).
22

23 6. A draft FFS was submitted by Shell and Dow to EPA in 1993. The
24 FFS reports the results of recent and previous investigations of
25 hazardous substance contamination at the Waste Pit Area.
26

27 7. There are eight waste pits located within the boundaries of the
28

1 Waste Pit Area. The series one pits (Pits 1-B and 1-C) contain
2 waste that is located from one to nine feet below ground surface.
3 As reported in the FFS, the waste in these pits contains hazardous
4 substances in the form of VOCs and PNAs ranging from 1,103 to
5 37,880 mg/kg (for PNAs) and from 304 to 3,432 mg/kg (for VOCs).
6 The two series pits (Pits 2-A to 2-F) contain waste that is located
7 from one to twenty-two feet below ground surface. The two series
8 pits contain PNA concentrations ranging from 22 to 2,510 mg/kg and
9 VOC concentrations ranging from 6,400 to 65,00 mg/kg. H2S is also
10 present in the series one and series two pits but is found at
11 higher concentrations (up to 4,500 mg/kg) in the series two pits.
12 The FFS describes the waste in the series two pits as generally
13 black, gummy, sometimes viscous tar sludges. Both the one and two
14 series pits are reported to be covered by a layer of fill which is
15 approximately two feet thick. The shallow soils at the Waste Pit
16 Area were reported in the FFS to contain no detectable or low
17 levels of VOCs and PNAs.

18
19 8. The hazardous substances of concern at the Waste Pit Operable
20 Unit are primarily benzene, ethylbenzene, H2S, and polynuclear
21 aromatic hydrocarbons such as naphthalene, acenaphthylene and
22 benzopyrene.

23
24 9. According to ATSDR's Toxicological Profiles for Benzene and
25 Naphthalene:

26
27 From overwhelming human evidence and supporting animal
28

1 studies, benzene is know to be a human carcinogen....

2 In addition, human and animal studies indicate that
3 benzene is harmful to the immune system.... Exposure
4 to benzene has also been linked with genetic changes
5 in humans and animals.

6
7 Hemolytic anemia (a condition involving the breakdown
8 of red blood cells) is the primary health concern for
9 humans exposed to naphthalene for either short or long
10 periods of time. Other effects commonly found include
11 nausea, vomiting, diarrhea, kidney damage, jaundice
12 and liver damage.

13
14 According to the TOMES Plus(R) Database, H₂S is a highly toxic,
15 flammable and colorless gas. Exposure to H₂S concentrations of 250
16 parts per million (ppm) causes irritation of the mucous membranes,
17 bronchitis, and pulmonary edema. At 500 ppm, symptoms include
18 headaches, nausea, weakness, disorientation and coma. Exposure to
19 higher concentrations can result in immediate death.

20
21 10. The 3.7 acre Waste Pit Area is surrounded by a cyclone fence.
22 Over the last several years, EPA has observed that holes have been
23 cut into the fence on a regular basis. The Waste Pit Area itself
24 is undeveloped and unoccupied and is currently covered by seasonal
25 weed growth. The Waste Pit Area is located immediately across the
26 street from a residential neighborhood. The closest residents to
27 Pits 2-A and 2-B have been voluntarily relocated as the result of

1 the CERCLA removal action being conducted by EPA at 1051 and 1055
2 204th Street in Torrance, California.

3
4 11. A wholly owned subsidiary of Shell Oil Company, Triton
5 Diagnostics, Inc., has been the owner of the Waste Pits Area since
6 May 1994.

7
8 12. On July 12, 1994, consultants for Shell Oil Company and Dow
9 Chemical Company observed three deposits of a black, shiny tar like
10 substance at the ground surface in historic low lying areas of Pit
11 2-B and Pit 2-A. A petroleum odor was reported as present in the
12 area of these deposits but was not detected at the boundary fence
13 of the Waste Pit Area. EPA was informed of this discovery on July
14 12, 1994. Based on the visual appearance and odor that accompanied
15 these deposits, EPA believes that these deposits consist of waste
16 material that was previously disposed of in these pits during the
17 operations of the synthetic rubber facility. Samples of the
18 material were taken by EPA and air sampling in the areas of these
19 deposits was also conducted by EPA on July 13, 1994.

20
21 13. On July 14, 1994, Shell Oil Company arranged for clean cover
22 material to be place above the three waste deposits.

23
24 14. On July 15, 1994, the Acting Director for the EPA Region 9
25 Hazardous Waste Management Division approved an Action Memorandum
26 authorizing certain removal actions at the Waste Pit Area. The
27 Action Memorandum includes the determination that:

1 Actual or threatened releases of hazardous substances
2 from the Waste Pit Area, if not addressed by implementing
3 the response action selected in this Action Memorandum,
4 may present an imminent and substantial endangerment to public
5 health, welfare, or to the environment.

6
7 This determination was based in part on the portion of the Action
8 Memorandum which concluded that there was an actual or potential
9 exposure to hazardous substances by nearby populations:

10
11 Waste material has been found at ground surface at two
12 of the waste pits in the Waste Pit Area. EPA believes this
13 material either seeped up to ground surface or was uncovered
14 as a result of the degradation of the pit soil cover. Waste
15 material in the pits contains high levels of hazardous
16 substances primarily VOCs, PNAs, and H₂S. Historically
17 holes have been repeatedly cut into the fence surrounding
18 the Waste Pit Area allowing unauthorized access to the
19 Waste Pit Area. In addition, residences are located
20 immediately across the street from the Waste Pit Area.
21 If the ground cover continues to degrade or additional
22 seepage reaches ground surface, trespassers may be exposed to
23 hazardous substances through dermal contact or inhalation
24 and nearby area residents may be exposed to hazardous
25 substances via inhalation.

1 V. CONCLUSIONS OF LAW AND DETERMINATIONS

2
3 Based on the preceding Findings of Fact, EPA has determined that:
4

5 1. The Proposed Del Amo Pits Superfund Site is a "facility" as
6 defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
7

8 2. The contaminants, including benzene, naphthalene and H₂S, found
9 at the Waste Pit Area, as identified in the Findings of Fact above,
10 are "hazardous substance(s)" as defined by section 101(14) of
11 CERCLA, 42 U.S.C. § 9601(14).
12

13 3. Respondents are each a "person" as defined by section 101(21)
14 of CERCLA, 42 U.S.C. § 9601(21).
15

16 4. Respondents are each liable parties, under section 107(a)(1-3)
17 of CERCLA, 42 U.S.C. § 9607(a)(1-3) with respect to the Proposed
18 Del Amo Pits Superfund Site.
19

20 5. The conditions at the Waste Pit Area described in the Findings
21 of Fact above constitute an actual or threatened "release" of a
22 hazardous substance from the facility, as defined by section
23 101(22) of CERCLA, 42 U.S.C. § 9601(22).
24

25 6. The conditions which were present at the Waste Pit Area
26 constitute or may constitute an imminent and substantial
27 endangerment to public health, welfare or the environment.
28

1 7. The actual or threatened release of hazardous substances from
2 the Waste Pit Area may present an imminent and substantial
3 endangerment to public health, welfare, or to the environment
4 within the meaning of section 106(a) of CERCLA, 42 U.S.C. §
5 9606(a).
6

7 8. The removal actions required by this Order are necessary to
8 protect the public health, welfare, or the environment, and are not
9 inconsistent with the NCP and CERCLA.
10

11 VI. ORDER 12

13 Based on the Foregoing Findings of Fact, Conclusions of Law, and
14 Determinations, EPA hereby orders that Respondents comply with the
15 following provisions and perform the following actions:
16

17 1. Notice of Intent to Comply

18 Respondents shall notify EPA in writing, within one calendar day
19 after the effective date of this Order, of Respondents' intent to
20 comply with this Order. Failure by Respondents to provide such
21 notification within this time period shall be a violation of this
22 Order by Respondents.
23

24 2. Designation of Contractor and Project Coordinator

25 Respondents shall perform the removal actions required by this
26 order themselves or shall retain contractors to perform the removal
27 actions. Respondents shall notify EPA of Respondents'
28

1 qualifications or the names and qualifications of such contractors
2 or subcontractors within 3 calendar days of the effective date of
3 this Order. EPA retains the right to disapprove of any, or all, of
4 the contractors and/or subcontractors retained by the Respondents
5 or Respondents' choice of one or both of the Respondents to do the
6 removal action. If EPA exercises this right of disapproval,
7 Respondents shall notify EPA that it has retained a different
8 contractor or subcontractor or notify EPA that it will conduct the
9 removal action itself within 2 business days following EPA's
10 disapproval.

11
12 Within three calendar days after the effective date of this Order,
13 Respondents shall designate a Project Coordinator who shall be
14 responsible for the administration of all of the Respondents'
15 actions required by the Order. Respondents shall submit the
16 designated coordinator's name, address, telephone number, and
17 qualifications to EPA. EPA retains the right to disapprove of any
18 Project Coordinator named by Respondents. If EPA disapproves of a
19 named Project Coordinator, Respondents shall retain a different
20 Project Coordinator and shall notify EPA of that person's name,
21 address, qualifications and telephone number within two business
22 days following EPA's disapproval.

23
24 EPA has designated Janet Rosati of the Region 9 Superfund
25 Enforcement Section as Project Coordinator for removal activities
26 required by this Order. Respondents shall direct all submissions
27 required by this Order to the EPA Project Coordinator at U.S. EPA,

1 Region 9, H-7-1, 75 Hawthorne Street, San Francisco, CA 94105. Ms.
2 Rosati's telephone number is (415) 744-2395.

3
4 3. Work to be Performed

5
6 On July 15, 1994, the EPA Region 9 Acting Division Director
7 authorized a time-critical removal action with regard to the Waste
8 Pit Area at the Proposed Del Amo Pits Superfund Site.

9
10 Respondents shall perform the following removal actions: 1) Submit
11 and implement, following EPA approval, a plan to increase site
12 security at the Waste Pit Area, including fence repairs and
13 upgrades, fence inspections and other appropriate measures to
14 ensure that there is no unauthorized entry to the Waste Pit Area;
15 2) Conduct and submit to EPA the results of, subject to EPA review
16 and approval, an investigation to identify the means by which the
17 waste material found on July 12, 1994 at ground surface at Pits 2-A
18 and 2-b came to be located there; 3) By 5p.m. on July 22, 1994,
19 Respondents shall conduct and report to EPA the results of an
20 inspection of the entire Waste Pit Area to determine whether waste
21 material is present at ground surface at other locations at the
22 Waste Pit Area. If waste material is found, additional response
23 actions to eliminate any actual or threatened release of hazardous
24 substances from such waste material shall be conducted on an
25 expedited basis by Respondents following EPA approval of such
26 response actions; 4) Based on the results of the initial inspection
27 and/or the conclusions of the Waste Pit Area or Residential Area

1 air monitoring planned for August 1994, Respondents shall submit
2 and implement a plan, subject to EPA approval, to increase the
3 quantity or quality of cover above or adjacent to the pits where
4 necessary; 5) Submit and implement, subject to EPA approval, a plan
5 for regular inspections of the Waste Pit Area; 6) Regularly remove
6 vegetation from the Waste Pit Area that could obstruct any
7 inspection or create a fire hazard; and 7) Prepare a response plan,
8 subject to EPA approval, establishing procedures and protocols by
9 which Respondents will respond to any future detection of waste
10 material from the pits at ground surface or other threatened
11 release of hazardous substances from the Waste Pit Area.

13 3.1 Work Plan and Implementation

15 Within seven calendar days after the effective date of this Order,
16 the Respondents shall submit to EPA for approval a draft Work Plan
17 for performing the actions set forth in Section 3.0, except for any
18 action identified in Section 3.0 that must be conducted by
19 Respondents on a more expedited basis. The draft Work Plan shall
20 provide a description of, and a proposed schedule for, the actions
21 required by this Order.

23 EPA may approve, disapprove, require revisions to, or modify the
24 draft Work Plan. If EPA requires revisions, Respondents shall
25 submit a revised Work Plan within three calendar days of receipt of
26 EPA's notification of the required revisions. Respondents shall
27 implement the Work Plan as finally approved in writing by EPA and

1 shall implement the Work Plan in accordance with the schedule
2 approved by EPA. Once approved by EPA, the Work Plan, the
3 schedule, and any modifications approved by EPA shall be fully
4 enforceable under this Order. Respondents shall notify EPA at
5 least 48 hours prior to initiating any activity at the Waste Pit
6 Area.

8 3.2 Quality Assurance and Sampling

10 Any sampling and analyses of soil or waste taken from the Waste Pit
11 Area performed by Respondents in response to this Order shall
12 conform to EPA direction, approval, and guidance regarding
13 sampling, quality assurance/quality control (QA/QC), data
14 validation, and chain of custody procedures. Respondents shall
15 ensure that the laboratory used to perform the analyses
16 participates in a QA/QC program that complies with the appropriate
17 EPA guidance.

19 Upon request by EPA, Respondents shall have such a laboratory
20 analyze samples submitted by EPA for quality-assurance monitoring.
21 Respondents shall provide to EPA the QA/QC procedures followed by
22 all sampling teams and laboratories performing data collection
23 and/or analysis.

25 Respondents shall notify EPA not less than two business days in
26 advance of any sample collection activity. EPA shall have the
27 right to take any additional samples that it deems necessary. Upon

1 request by EPA, Respondents shall allow EPA or its authorized
2 representatives to take split and/or duplicate samples of any
3 samples collected by Respondents while performing actions under
4 this Order.

5 6 7 3.3 Reporting 8

9 Respondents shall submit a written progress report to EPA
10 concerning actions undertaken pursuant to this Order every seventh
11 calendar day after the date of receipt of EPA's approval of the
12 Work Plan. The written progress reports shall describe all
13 significant developments during the preceding seven days, including
14 the actions performed, problems encountered, analytical data
15 received, developments anticipated during the next reporting
16 period, a schedule of work to be performed, and planned resolutions
17 of present or anticipated problems.

18 19 3.4 Final Report 20

21 Within thirty calendar days after all work required by this Order
22 has been performed, Respondents shall submit for EPA review a final
23 report summarizing the actions taken by Respondents to comply with
24 this Order. The final report shall at a minimum comply with the
25 requirements set forth in Section 300.165 of the National
26 Contingency Plan entitled "OSC Reports." See 40 C.F.R. § 300.165.
27 The final report shall include a good faith estimate of the total
28

1 costs or a statement of the actual costs incurred in complying with
2 this Order, a listing of quantities and types of materials removed,
3 a presentation of all analytical results for sampling conducted by
4 Respondents with respect to compliance with this Order, and
5 accompanying appendices containing all relevant documentation
6 generated by Respondents in complying with this Order (e.g.,
7 manifests, invoices, bills, contracts and permits). The final
8 report shall also include the following certification signed by a
9 person who supervised or directed the preparation of that report:

10
11 Under penalty of law, I certify that to the best of my
12 knowledge, after appropriate inquiries of all relevant
13 persons involved in the preparation of the report, the
14 information submitted is true, accurate, and complete.

15 I am aware that there are significant penalties for submitting
16 false information, including the possibility of fine and
17 imprisonment for knowing violations.

18
19 4. Record Retention, Documentation, Availability of Information

20
21 Respondents shall preserve all documents and information relating
22 to work performed under this Order for ten years following the
23 completion of all actions required under this Order. At the end of
24 this ten year period and thirty days before any document or
25 information is destroyed, Respondents shall notify EPA that such
26 documents or information are available to EPA for inspection, and
27 upon request, shall provide the originals or copies of such

1 documents and information to EPA. In addition, Respondents shall
2 provide documents and information retained under this Section at
3 any time before the expiration of the ten year period following the
4 written request of EPA.

5
6 Respondents may assert a business confidentiality claim pursuant to
7 40 C.F.R. § 2.203(b) with respect to part or all of any information
8 submitted to EPA pursuant to this Order, provided such claim is
9 allowed by section 104(e)(7) of CERCLA, 42 U.S.C. §9604(e)(7). If
10 no such claim accompanies the information when it is received by
11 EPA, EPA may make it available to the public without further notice
12 to Respondents.

13
14 5. Compliance With Other Laws

15
16 Respondents shall perform all actions required pursuant to this
17 Order in accordance with all applicable local, state and federal
18 laws.

19
20 6. Emergency Response and Notification of Releases

21
22 If any incident during the actions conducted pursuant to this Order
23 causes or threatens to cause an additional release of hazardous
24 substances or an endangerment to the public health, welfare, or to
25 the environment, the Respondents shall immediately take all
26 appropriate action. The Respondents shall take these actions in
27 accordance with all applicable provisions of this Order and all

1 applicable state and federal laws in order to prevent, abate or
2 minimize such release or endangerment caused or threatened by the
3 release. Respondents shall also immediately notify the EPA Project
4 Coordinator or in the event of her unavailability, shall notify the
5 Regional Duty Officer (415) 744-2000 of the incident. In the event
6 of any release, the Respondents shall also notify the National
7 Response Center at (800) 424-8802.

8
9 Respondents shall submit a written report to EPA within seven days
10 after a release, setting forth the events that occurred and the
11 measures taken or to be taken to mitigate any release or
12 endangerment caused or threatened by the release and to prevent the
13 reoccurrence of such a release. This reporting requirement is in
14 addition to, not in lieu of, reporting under CERCLA section 103(c),
15 42 U.S.C. § 9603(c) and section 304 of the emergency Planning and
16 Community Right to Know Act of 1986, 42 U.S.C. Sections 11001 et
17 seq.

18
19 **VII. AUTHORITY OF THE EPA PROJECT COORDINATOR**

20
21 The EPA Project Coordinator shall be responsible for overseeing the
22 proper and complete implementation of this Order. The Project
23 Coordinator shall have the authority vested by the NCP, 40 C.F.R.
24 § 300.120, including but not limited to the authority to halt,
25 conduct, or direct any action required by this Order, or to direct
26 any other removal action undertaken by EPA or Respondents at the
27 Waste Pit Area.

1 EPA and Respondents shall have the right to change their designated
2 Project Coordinators. EPA or Respondents shall notify the other
3 party of such a change two calendar days before such a change is
4 made. Notification shall be made by written notice.
5

6 **VIII. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE**
7

8 Violation of any provision of this Order may subject each
9 Respondent to civil penalties of up to \$25,000 per violation per
10 day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. §
11 9606(b)(1). Respondents may also be subject to punitive damages in
12 an amount up to three times the amount of any cost incurred by the
13 United States as a result of such violation, as provided in section
14 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents
15 violate this Order of any portion hereof, EPA may carry out the
16 required actions unilaterally, pursuant to section 104 of CERCLA,
17 42 U.S.C. 9604, and/or may seek judicial enforcement of this Order
18 pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.
19

20 **IX. RESERVATION OF RIGHTS**
21

22 Except as specifically provided in this Order, nothing herein shall
23 limit the power and authority of EPA or the United States to take,
24 direct, or order all actions necessary to protect public health,
25 welfare, or the environment or to prevent, abate, or minimize an
26 actual or threatened release of hazardous substances, pollutants or
27 contaminants, hazardous or solid waste on, at or from the proposed
28

1 Del Amo Pits Superfund Site, or any other area or location,
2 including the Montrose Chemical Superfund Site. Further, nothing
3 herein shall prevent EPA from seeking legal or equitable relief to
4 enforce the terms of this Order, from taking other legal or
5 equitable action as it deems appropriate and necessary, or from
6 requiring Respondents to perform additional activities pursuant to
7 CERCLA or any other applicable law. EPA specifically reserves the
8 right to pursue all response costs incurred by the United States in
9 relation to the Proposed Del Amo Pits Superfund Site and the
10 Montrose Chemical Superfund Site and any related site or facility.

11
12 **X. OTHER CLAIMS**
13

14 By issuance of this Order, the United States and EPA assume no
15 liability for injuries or damages to persons or property resulting
16 from any actions or omissions of Respondents. The United States,
17 including but not limited to EPA, shall not be deemed a party to
18 any contract entered into by Respondents in carrying out actions
19 pursuant to this Order.

20
21 This Order does not constitute a pre-authorization of funds under
22 section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).
23

24 Nothing in this Order shall constitute a satisfaction of or release
25 from any claim or cause of action against the Respondents or any
26 person not a party to this Order for any liability such person may
27 have under CERCLA, or other statutes or common law, including but
28

1 not limited to any claims of the United States for costs, damages
2 and interest under section 106(a) and 107(a) of CERCLA, 42 U.S.C.
3 § 9606(a) and § 9607(a).
4

5 **XI. MODIFICATIONS**
6

7 Modifications to any plan or schedule may be made in writing by the
8 EPA Project Coordinator or at the EPA Project Coordinator's oral
9 direction. If the EPA Project Coordinator makes an oral
10 modification, it will be memorialized in writing within two
11 business days; provided, however, that the effective date of the
12 modification shall be the date of the EPA Project Coordinator's
13 oral direction. The rest of the Order, or any other portion of the
14 Order may only be modified in writing by the EPA Director of the
15 Region 9 Hazardous Waste Management Division.
16

17 If Respondents seeks permission to deviate from any approved plan
18 or schedule, Respondents' Project Coordinator shall submit a
19 written request and rationale for such request to EPA for approval.
20

21 No informal advice, guidance, suggestion, or comment by EPA
22 regarding reports, plans, specifications, schedules, or any other
23 writing submitted by Respondents shall relieve the Respondents of
24 its obligation to obtain formal approval as may be required by this
25 Order, and to comply with all requirements of this Order unless it
26 is formally modified.
27

1 **XII. NOTICE OF COMPLETION**

2
3 When EPA determines, after EPA's review of the Final Report, that
4 all removal actions have been fully performed in accordance with
5 this Order, with the exceptions of any continuing obligations
6 required by this Order, EPA will provide a notice of completion to
7 Respondents. If EPA determines that all actions have not been
8 completed in accordance with this Order, EPA will notify the
9 Respondents of the deficiencies and require that the Respondents
10 correct such deficiencies.

11
12 **XIII. ACCESS TO ADMINISTRATIVE RECORD**

13
14 The Administrative Record supporting the removal actions required
15 by this Order will be made available for review in accordance with
16 the NCP requirements for administrative records for time-critical
17 removal actions. See 40 C.F.R. § 300.820(b). EPA will inform the
18 Respondents in writing of the availability and location of the
19 Administrative Record.

20
21 **XIV. OPPORTUNITY TO CONFER**

22
23 Within three calendar days after the issuance of this Order,
24 Respondents may request a conference with EPA. Any such conference
25 shall be held within four calendar days after the effective date of
26 this Order unless extended by agreement of the parties. At any
27 conference held pursuant to the request, Respondents may appear in

1 person or be represented by an attorney or other representative.

2
3 If a conference is held, Respondents may present any information,
4 arguments or comments regarding this Order. Regardless of whether
5 a conference is held, Respondents may submit any information,
6 arguments or comments in writing within seven calendar days
7 following the conference, or within 10 calendar days following the
8 issuance of the Order if no conference is requested. This
9 opportunity to confer is not an evidentiary hearing, does not
10 constitute a proceeding to challenge this Order, and does not give
11 Respondents a right to seek review of this Order. A request for
12 a conference, or any written submittal under this paragraph shall
13 be directed to John J. Lyons, Assistant Regional Counsel, at (415)
14 744-1312, U.S. EPA, Office of Regional Counsel RC 3-2, 75 Hawthorne
15 Street, San Francisco, CA 94105.

16
17 **XV. SEVERABILITY**

18
19 If a court issues an order that invalidates any provision of this
20 Order or finds that Respondents have sufficient cause not to comply
21 with one or more provisions of this Order, Respondents shall remain
22 bound to comply with all provisions of this Order not invalidated
23 or determined to be subject to a sufficient cause defense by the
24 court's order.

25
26 **XVI. EFFECTIVE DATE**

1 This Order shall be effective at 5 p.m. on Monday July 18, 1994.
2 If a conference is requested by Respondent pursuant to Section
3 XIV., this Order shall be effective on the second calendar day
4 following the conference unless modified in writing by EPA.
5

6 IT IS SO ORDERED

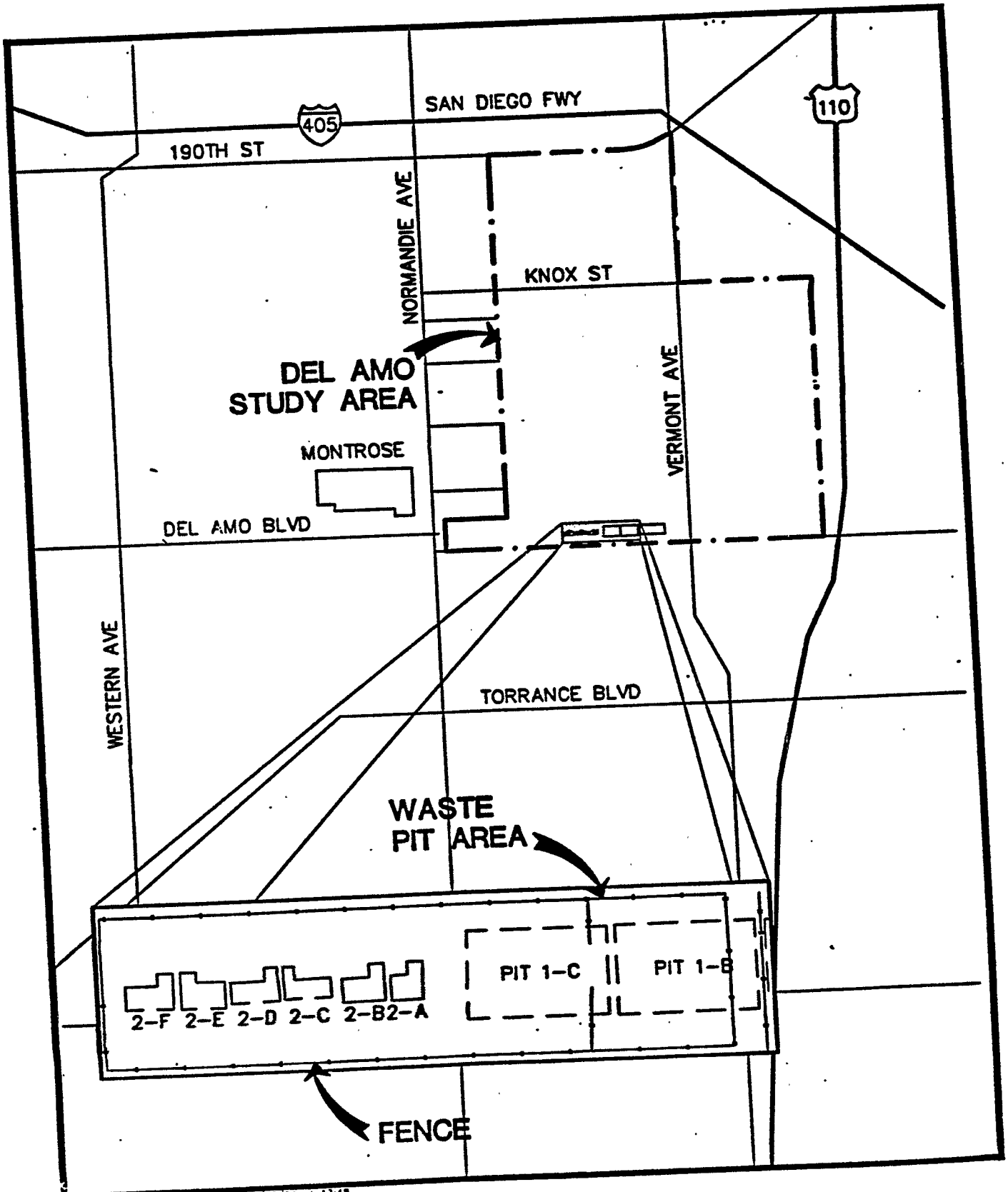
7
8 BY: Nancy Lindsay for J. Zelikson DATE: 7/15/94
9 Jeff Zelikson

10 Director, Hazardous Waste Management Division

11 United States Environmental Protection Agency, Region 9
12

13 **EFFECTIVE DATE: 5 p.m. July 18, 1994**
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Figure 1



150-0055

